

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SCOTT HIMMEL and DEBORAH HIMMEL,)
)
)
Plaintiffs,)
)
)
v.) Case No.: 2021-cv-2214
)
)
IQ DATA INTERNATIONAL, INC., and)
WIRTZ REALTY CORPORATION,)
)
)
Defendant.)

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant IQ Data International, Inc., by and through its counsel of Gordon & Rees, LLP, hereby files its Notice of Removal of the action styled *Scott Himmel and Deborah Himmel versus IQ Data International, Inc., and Wirtz Realty Corporation*, Case Number 21-CH-001334, from the Circuit Court of the Cook County, Illinois to the United States District Court for the Northern District of Illinois, Eastern Division. The grounds for removal are as follows:

I. THE STATE COURT ACTION

1. On March 19, 2021, Plaintiffs Scott and Deborah Himmel filed a complaint in the Circuit Court of the Cook County (Chancery Division), Illinois, styled *Jessica Verenski, on behalf of Plaintiff and the class members described herein versus IQ Data International, Inc. and Wirtz Realty Corporation*, Case Number 20-CH-0000471. Pursuant to 28 U.S.C. § 1446(a), copies of those summons, process, pleadings, motions, and orders filed in the State Court Action are attached hereto as “Group Exhibit A.”

2. IQ Data first received notice of this lawsuit on March 25, 2021, when it was served with a copy of Plaintiffs’ summons and Complaint.

3. Plaintiffs' Complaint alleges that they had an apartment lease with Wirtz Realty Corporation, and that they moved out of their apartment on January 23, 2018. *See Exhibit A*, Complaint, ¶¶ 10; 13. Plaintiffs allege that, despite owing no balance for unpaid rent or associated move out fees, Wirtz sent their account to IQ Data for the collection of unpaid debts. *Id.* ¶¶ 15-18. As part of its collection efforts, IQ Data allegedly reported the debt to TransUnion and Experian. *Id.* ¶ 19. On October 21, 2020 and again on February 24, 2021, Plaintiff allegedly wrote to Trans Union and Experian, disputing the debt. *Id.* ¶¶ 20; 24. Plaintiffs now claim that IQ Data failed to properly investigate the disputed debt, causing the and failed to inquire why Wirtz purportedly refunded Plaintiffs the monies it was seeking to collect, causing Plaintiffs harm. *Id.* ¶¶ 27-31; 46-48.

4. Upon this set of operative facts, Plaintiff claims that IQ Data violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA"), by allegedly (1) demanding the payment of monies not owed; (2) misrepresenting the person to whom amounts were allegedly owed; (3) making false representations as to the character, amount, or legal status of the debt; (4) communicating false credit information; and (5) using false representations or deceptive means to attempt to collect the debt. *Id.* ¶¶ 44-45.

5. Upon this set of operative facts, Plaintiff claims that IQ Data and Wirtz violated the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* ("FCRA"), by allegedly (1) failing to investigate Plaintiffs' dispute when it was forwarded by the credit bureaus; and (2) providing false information to the credit bureaus when they contacted Defendants in response to Plaintiffs' dispute. *Id.* ¶ 48.

II. THE PROCEDURAL REQUIREMENTS FOR REMOVAL ARE SATISFIED

6. IQ Data first received notice of the Complaint on March 25, 2021, upon service of the summons and Complaint. Upon information and belief, Wirtz did not receive notice of the Complaint until March 30, 2021, when it was served with summons and the Complaint. Therefore, IQ Data's removal of this action is timely in accordance with 28 U.S.C. § 1446(b), because IQ Data's Notice of Removal was filed within 30 days. 28 U.S.C. § 1446(b).

7. Pursuant to 28 U.S.C. § 1446(b)(2)(A), Defendant Wirtz Realty Corporation joins in and consents to this removal petition.

8. Pursuant to 28 U.S.C. § 1446(a), copies of all summons, process, pleadings, motions and orders that have been filed in the State Court Action are attached as "Exhibit A."

9. This Court embraces the locality in which the State Court Action is now pending, making this Court a proper forum pursuant to 28 U.S.C. § 1441(a).

10. No previous application has been made for the relief requested herein.

11. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon Plaintiff, and a copy is being filed with the Circuit Court of the Cook County, Illinois.

12. If any question arises regarding the propriety of the removal of this action, IQ Data respectfully requests the opportunity to present a brief and/or oral argument in support of its position that this case is removable.

III. THIS COURT HAS FEDERAL QUESTION JURISDICTION

13. As noted above, Plaintiffs purport to set forth causes of action for claimed violations of the FDCPA, 15 U.S.C. § 1692 *et seq.* and the FCRA, 15 U.S.C. § 1681 *et seq.* Therefore, federal question jurisdiction exists over Plaintiff's claim under 28 U.S.C. § 1331,

because the resolution of Plaintiff's claim will require the adjudication of a disputed question of federal law.

14. In addition, pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction over Plaintiffs' common law claims against Defendants.

15. Because Plaintiff's claim arises under the laws of the United States, removal of this cause of action is appropriate under 28 U.S.C. §§ 1441(a)-(c).

WHEREFORE, Defendant IQ Data International, Inc. hereby removes the action now pending against it in the Circuit Court of the Cook County (Chancery Division), Illinois, and requests that this Court assume and retain full jurisdiction over this action for all further proceedings.

Dated: April 23, 2021

Respectfully submitted,

By: /s/ Paul Gamboa

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CERTIFICATE OF SERVICE/

I hereby certify that on April 23, 2021, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all attorneys of record, and sent a copy of the foregoing document via first class mail, postage prepaid, addressed to:

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